

PATENT COOPERATION TREATY

PCT

NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

Commissioner
 US Department of Commerce
 United States Patent and Trademark
 Office, PCT
 2011 South Clark Place Room
 CP2/5C24
 Arlington, VA 22202
 ETATS-UNIS D'AMERIQUE
 in its capacity as elected Office

Date of mailing (day/month/year) 13 December 2000 (13.12.00)	
International application No. PCT/US00/13842	Applicant's or agent's file reference AA399XM/7J
International filing date (day/month/year) 19 May 2000 (19.05.00)	Priority date (day/month/year) 19 May 1999 (19.05.99)
Applicant DECKNER, George, Endel et al	

1. The designated Office is hereby notified of its election made:



in the demand filed with the International Preliminary Examining Authority on:

13 November 2000 (13.11.00)



in a notice effecting later election filed with the International Bureau on:

2. The election ☒ was

was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No.: (41-22) 740.14.35	Authorized officer Juan Cruz Telephone No.: (41-22) 338.83.38
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A61L 15/34

A1

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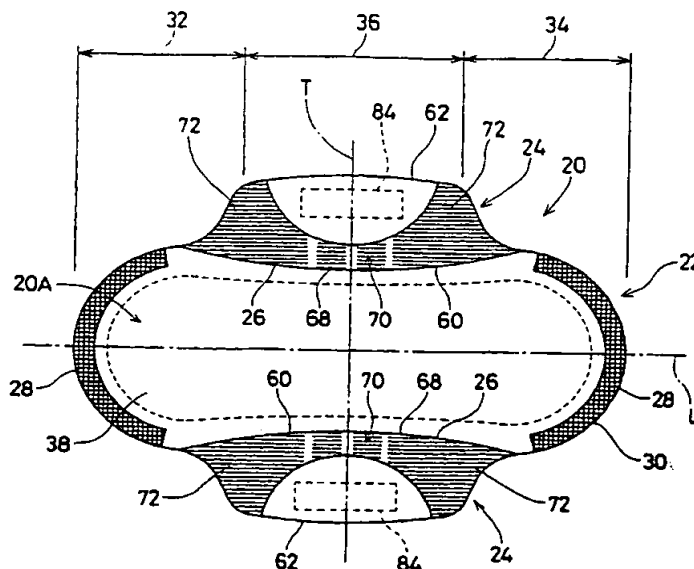
(74) Agents: REED, T., David et al.; The Procter & Gamble Company, 5299 Spring Grove Avenue, Cincinnati, OH 45217-1087 (US).

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Published

With international search report.

(54) Title: ABSORBENT ARTICLE WITH SKIN CARE COMPOSITION



(57) Abstract

An absorbent article comprising a body contacting surface and an absorbent core is disclosed. At least a portion of the body contacting surface comprises an effective amount of a skin care composition which is solid or semisolid at 40 °C and which is transferable from the body contacting surface to the wearer's skin by contact, normal wearer motion and body heat at a level effective in providing a skin benefit to the wearer's skin. The skin care composition has viscosity of more than about 10⁵ Poise under shear stress of less than about 3X10⁴ dynes/cm², and viscosity of less than about 10² Poise under shear stress of more than about 10⁶ dynes/cm², at 40 °C.

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EE	Estonia	LR	Liberia	SG	Singapore		

INTERNATIONAL SEARCH REPORT

International Application No.

PCT/US 00/13842

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 A61L15/34

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61L A61F A61K

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, PAJ, WPI Data

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 99 22684 A (PROCTER & GAMBLE) 14 May 1999 (1999-05-14) page 40, line 22 -page 50, line 13 examples claims	1-36
X	WO 99 12530 A (PROCTER & GAMBLE) 18 March 1999 (1999-03-18) cited in the application page 9, last paragraph -page 19, line 5 examples claims	1-36

☒ Further documents are listed in the continuation of box C.☒ Patent family members are listed in annex.

* Special categories of cited documents :

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search

28 August 2000

Date of mailing of the international search report

04/09/2000

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Thornton, S

INTERNATIONAL SEARCH REPORT

Inter. Application No.

PCT/US 00/13842

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 98 55158 A (PROCTER & GAMBLE) 10 December 1998 (1998-12-10) cited in the application page 21, paragraph 3 -page 33, line 25 examples claims ----	1-36
X	WO 98 24390 A (PROCTER & GAMBLE) 11 June 1998 (1998-06-11) cited in the application page 33, line 22 -page 43, line 3 examples claims ----	1-36
X	US 5 643 588 A (WARNER ALRICK VINCENT ET AL) 1 July 1997 (1997-07-01) cited in the application column 9, line 40 -column 16, line 54 examples claims ----	1-20, 30-36
X	EP 0 875 233 A (FORT JAMES CORP) 4 November 1998 (1998-11-04) figures 1,2 table 3 claims ----	1-20, 30-36
Y	US 5 618 522 A (KALETA JAMES E ET AL) 8 April 1997 (1997-04-08) column 5, line 24 -column 8, line 13 claims ----	1-36
Y	WO 97 38735 A (ENVIRODERM PHARMACEUTICALS INC) 23 October 1997 (1997-10-23) page 35, line 19 - line 29 examples claims ----	1-36
A	DE 33 09 530 C (LEITNER N ET AL) 25 October 1984 (1984-10-25) the whole document ----	1-36
P,X	WO 99 45973 A (OSBORNE SCOTT EDWARD ;PROCTER & GAMBLE (US); ROE DONALD CARROLL (U) 16 September 1999 (1999-09-16) cited in the application page 33, line 1 -page 42, line 25 claims -----	1-36

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 00/13842

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
WO 9922684 A	14-05-1999	AU 9809198 A EP 1027022 A ZA 9809697 A	24-05-1999 16-08-2000 29-04-1999
WO 9912530 A	18-03-1999	AU 9227398 A EP 1011645 A ZA 9808307 A	29-03-1999 28-06-2000 11-03-1999
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WO 9824390 A	11-06-1998	AU 5372198 A AU 7622098 A CA 2223361 A CA 2223363 A CA 2223382 A CN 1251534 A CN 1245438 A CZ 9901994 A EP 0971750 A EP 0967949 A NO 992679 A NO 992680 A WO 9824391 A ZA 9710747 A	29-06-1998 29-06-1998 03-06-1998 03-06-1998 03-06-1998 26-04-2000 23-02-2000 17-11-1999 19-01-2000 05-01-2000 03-08-1999 03-08-1999 11-06-1998 10-09-1998
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EP 0875233 A	04-11-1998	US 5871763 A	16-02-1999
US 5618522 A	08-04-1997	NONE	
WO 9738735 A	23-10-1997	US 5869033 A AU 2610197 A CA 2251587 A EP 0914167 A US 6051749 A	09-02-1999 07-11-1997 23-10-1997 12-05-1999 18-04-2000
DE 3309530 C	25-10-1984	NONE	
WO 9945973 A	16-09-1999	AU 3079599 A	27-09-1999

PATENT COOPERATION TREATY

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REC'D 31 AUG 2001

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference AA399XM/7J		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US00/13842	International filing date (day/month/year) 19/05/2000	Priority date (day/month/year) 19/05/1999	
International Patent Classification (IPC) or national classification and IPC A61L15/34			
Applicant THE PROCTER & GAMBLE COMPANY et al			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 8 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☒ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 13/11/2000	Date of completion of this report 29.08.2001
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer Staber, B Telephone No. +49 89 2399 8587 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/US00/13842

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, pages:

1-68 as originally filed

Claims, No.:

1-36 as originally filed

Drawings, sheets:

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/US00/13842

☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application.

☒ claims Nos. 1 to 6 (partly).

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1 to 6 (partly) are so unclear that no meaningful opinion could be formed (*specify*):
see separate sheet

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for the said claims Nos. .

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the standard.

☐ the computer readable form has not been furnished or does not comply with the standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Yes: Claims 10-16, 22, 23, 26-29

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	No:	Claims	1-9, 17-21, 24, 25, 30-36
Inventive step (IS)	Yes:	Claims	
	No:	Claims	1-36
Industrial applicability (IA)	Yes:	Claims	1-36
	No:	Claims	

2. Citations and explanations
see separate sheet

VI. Certain documents cited

1. Certain published documents (Rule 70.10)

and / or

2. Non-written disclosures (Rule 70.9)

see separate sheet

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:
see separate sheet

Section III

Claims 1 to 6 refer to a product which is characterized by parameters only, such as viscosity and consistency which are not directly comparable with the parameters of the prior art compositions so that concerning novelty no complete examination of said claims can be carried out. The examination is mainly based on the skin care composition and their ingredients used in the absorbent article.

Section V

The following documents are taken into consideration:

- D1: WO 99 22684 A (PROCTER & GAMBLE) 14 May 1999 (1999-05-14)
- D2: WO 99 12530 A (PROCTER & GAMBLE) 18 March 1999 (1999-03-18) cited in the application
- D3: WO 98 24390 A (PROCTER & GAMBLE) 11 June 1998 (1998-06-11) cited in the application
- D4: US-A-5 643 588 (WARNER ALRICK VINCENT ET AL) 1 July 1997 (1997-07-01) cited in the application
- D5: EP-A-0 875 233 (FORT JAMES CORP) 4 November 1998 (1998-11-04)
- D6: US-A-5 618 522 (KALETA JAMES E ET AL) 8 April 1997 (1997-04-08)

1. Novelty

Prior art document D1 refers to absorbent articles having a web material which have at last two different skin care compositions disposed thereon which are transferable to the wearer's skin. Said compositions are composed of emollients (cf. p. 41, l.28 -p.44, l. 32), agents capable of immobilizing the composition (cf. p.45, l. 3 -p.50, l.5), viscosity modifiers, such as silica (cf. p.50, l.27-31), and skin care active ingredients (cf. p.39, l. 29 -40, l. 1). On page 40 and 42, it is said that the skin care composition has a certain zero shear viscosity.

Although the viscosity data of D1 are not directly comparable with the viscosity data indicated in the application and although nothing is said in D1 concerning the

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EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/US00/13842

consistency of the skin care composition, the fact that the claimed skin care composition, the individual ingredients thereof and the transferability of the composition to the skin (being influenced by its viscosity) are already mentioned in said prior art, takes away novelty of the claimed invention.

Hence, claims 1 to 9, 17 to 21, 24, 25, 30 to 36 are novelty destroyed by document D1.

Document D2 which describes a method for improving skin health of a wearer in an area covered by absorbent articles characterized by using an absorbent article having disposed thereon a skin care composition transferable to the skin which is similar with the skin care composition of D1 as it is composed of an emollient (D2, p.11-14), an immobilizing agent (cf. D2, p. 14-19) and active agents (cf. D2, p.9, l.1 -9) and characterized by a certain viscosity (cf. D2, p.10-11).

D2 is therefore novelty destroying for claims 1 to 9, 17 to 21, 30 to 36.

Further, the absorbent article of document D3 containing cuffs with a skin care composition disposed thereon, wherein the composition is identical with the skin care composition of D1, is considered to be novelty destroying for claims 1 to 9, 17 to 21, 24, 25, 30 to 36 of the invention.

Furthermore, the diaper of D4 coated with a lotion composition which has a viscosity as specified in col. 10, l. 23 to 36 and comprises an emollient, an immobilizing agent as well as pharmaceutical agents, as well as the substrate of D5 which is treated with a lotion transferable to the wearer's skin appear to take away novelty of claims 1 to 9, 17 to 20, 30 to 36.

Hence, claims 1 to 9, 17 to 21, 24, 25, 30 to 36 are not novel in the sense of Art. 33(2) PCT.

2. Inventive Step

The present invention provides an absorbent article which has a skin care composition disposed thereon in order to provide skin care benefits to the wearer. In the prior art similar absorbent articles are described coated with a skin care composition which upon transfer to the wearer's skin is able to maintain and/or improve the skin health of the wearer.

The present invention, especially the skin care composition used, differs from the prior art in that a specific kind of emollient, i.e. a specific petrolatum (claims 10 to 16), a certain behenyl alcohol (claims 22, 23) and a particulate thickener as mentioned in claims 26 to 29 is applied in the composition.

However, the Applicant failed to demonstrate that the use of a specific emollient as well as the use of a certain immobilizing agent does not lead a surprising technical effect, the claimed skin care composition appears to be an obvious alternative to the prior art compositions.

Concerning the particulate thickeners which as mentioned in claims 26 to 29 are used as immobilizing agent, such agents are well known thickeners which according to document D6 are used to thicken the oil phase of a skin care composition in order to meet the requisite viscosity requirements (cf. D6, col.3, l. 35 to 45). In addition to the thickening compounds, D6 also teaches the particle size thereof (cf. D6, col. 5, l. 30-32; col.6, l. 20-32). Hence, the teaching of D6 in combination with the prior art documents D1 or D3, inevitably leads to the invention as set out in claims 26 to 29 of the present application.

Consequently, claims 1 to 36 do not fulfil the requirements of Art. 33(3) PCT.

Section VI

WO 99 45973, although not constituting prior art within the meaning of Rule 64.1 (b), appears to disclose all the features of the claimed skin care composition. No check has been made whether the priority of the present application has been validly claimed.

Section VIII

Claims 1 to 6 do not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not clearly defined. The following functional statements, namely the adjustment of a certain viscosity and a certain consistency, do not enable the skilled person to determine which technical features are necessary to perform the stated functions.

Claim 8 comprises all the features of claim 1 and is therefore not appropriately formulated as a claim dependent on the latter (Rule 6.4 PCT).

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In addition, claim 30 is not clearly defined since the emollient used is not clearly distinguishable from the skin active agent since both can be represented by petrolatum (cf. p. 39/49 Table).

It should further be mentioned that the term "about" in combination with ranges renders the scope of the respective claim unclear.